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3 **UNITED STATES DISTRICT COURT**  
4 **DISTRICT OF NEVADA**

5 \* \* \*

6 John Laszloffy,

7 Plaintiff,

8 v.

9 Cindy Zoraida Garcia et. al,

10 Defendant.

Case No. 2:19-cv-01173-JAD-BNW

11 **ORDER**

12 Before the Court is Plaintiff's Motion to deem his requests for admission, set one, as to  
13 Defendants Garcia and Symanski admitted. ECF No. 95. Defendants opposed and Plaintiff  
14 replied. ECF Nos. 98, 103. In addition, Plaintiff filed a similar request seeking to deem his  
15 requests for admission, set two, as to these same Defendants admitted. ECF No. 96. Defendants  
16 opposed and Plaintiff replied. ECF Nos. 101, 104.

17 The parties are familiar with the facts and arguments underlying these motions. As a  
18 result, this Court only includes the facts and arguments material to this Order.

19 As explained in more detail below, this Court denies Plaintiff's motions as Mr. Mitten  
20 responded to the requests in both sets within the timeframe and in a manner that complied with  
21 Federal Rule of Civil Procedure 36.

22 **I. Legal Framework**

23 A matter is admitted unless, within 30 days after being served, the party to whom the  
24 request is directed serves on the requesting party a written answer or objection addressed to the  
25 matter and signed by the party or its attorney. FED. R. CIV. P. 36(a)(3). Since defendants are  
26 represented by counsel (Mr. Mitten) Plaintiff is required to serve any requests for admission on  
27 him. FED. R. CIV. P. 36(b)(1). He can serve the requests for admission by (a) handing them to Mr.  
28 Mitten, (b) leaving them at Mr. Mitten's office or his usual place of abode, (c) mailing them to

1 Mr. Mitten's last-known address, (d) leaving it with the court clerk (if the person has no known  
2 address), (e) sending them by electronic means if the person consented to in writing (in which  
3 case, service is complete upon filing or sending, but is not effective if the filer or sender learns  
4 that it did not reach the person to be served), or (f) delivering it by any other means that the  
5 person consented to in writing. FED. R. CIV. P. 36(b)(2)(A)-(F).

6 Here, the parties have agreed to electronic service of discovery. ECF No. 53 at 4.

7 **II. Request to Deem Admitted Requests for Admission, Set One (ECF No. 95)**

8 Plaintiff emailed his Requests for Admission, Set One, as to Defendants Garcia and  
9 Szymanski to Mr. Mitten on October 4, 2023. *See* Exhibit A (ECF No. 95 at 6-13) and Exhibit B  
10 (ECF No. 95 at 15-19). Both emails were sent to [1mittin@cpklaw.com](mailto:1mittin@cpklaw.com) (email starting with the  
11 number "1"). *Id.* Plaintiff asserts that more than 30 days have elapsed since October 4, 2023,  
12 without receiving a response. As a result, he argues that his Requests for Admission, Set One, as  
13 to both Defendants should be deemed admitted. ECF No. 95.

14 Mr. Mittin represents he never received the October 4, 2023, emails. ECF No. 98. The  
15 email address Mr. Mittin registered with the Court is [1mittin@cpklaw.com](mailto:1mittin@cpklaw.com) (email address starts  
16 with lower-case letter "L" as opposed to the number "1"). Here, Plaintiff sent the emails with the  
17 requests to the incorrect email address—[1mittin@cpklaw.com](mailto:1mittin@cpklaw.com) (which starts with the number "1"  
18 as opposed to the lower-case letter "L"). ECF No. 95 at 6, 15. Nevertheless, Mr. Mittin did  
19 receive the Requests for Admission, Set One, as to both Defendants because Plaintiff also sent  
20 them to him by regular mail. In turn, Mr. Mittin emailed to Plaintiff the responses to these  
21 requests on October 10, 2023. ECF No. 98-3.

22 Plaintiff's argument in his reply is that *Mr. Mittin* signed the responses (instead of the  
23 Defendants) and that Mr. Mitten could have post-dated the responses. ECF No. 103.<sup>1</sup>

24 Plaintiff's requests have a signature date of October 4, 2023. ECF No. 95 at 9, 19. It  
25 appears Mr Mittin received the requests by regular mail on October 9, 2023. ECF 101 at 4. Mr.  
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27 <sup>1</sup> Plaintiff also provides arguments regarding Requests for Admission, Set Two, which the Court will  
28 address in a separate section of this Order.

1 Mittin emailed the responses to these requests to Plaintiff on October 10, 2023. ECF No. 98-3.  
2 Thus, this Court is satisfied that Mr. Mittin responded to the Requests for Admission, Set One, as  
3 to both Defendants, within the 30 days required by Federal Rule of Civil Procedure 36(a)(3).  
4 Nothing in the record (other than Plaintiff's allegations) suggests that Mr. Mittin post-dated the  
5 date on these responses. Lastly, Rule 36 does not require the signature of the Defendants. Instead,  
6 Mr. Mitten's signature (as attorney for the Defendants) is all that is required. FED. R. CIV.  
7 P. 36(a)(3). As a result, Mr. Mitten's responses to Requests for Admission, Set One, as to both  
8 Defendants complies with Rule 36. Plaintiff's request to deem these requests admitted is denied.

9 **III. Request to Deem Admitted Requests for Admission, Set Two (ECF No. 96)**

10 Plaintiff emailed his Requests for Admission, Set Two, as to Defendants Garcia and  
11 Szymanski to Mr. Mitten on October 24, 2023. *See* Exhibits A (ECF No. 96 at 7-10) and Exhibit  
12 B (ECF No. 96 at 12-15). Plaintiff asserts that more than 30 days elapsed since service of these  
13 requests and that he did not receive responses. As a result, he argues that his Requests for  
14 Admission, Set Two, as to both Defendants should be deemed admitted. ECF No. 96.

15 Once again, Mr. Mittin asserts that he never received the October 24, 2023, emails with  
16 the requests. ECF No. 101 at 3. This is because Plaintiff sent the emails to the incorrect email  
17 address—[1mittin@cpklaw.com](mailto:1mittin@cpklaw.com)—an address that starts with the number “1” as opposed to the  
18 lower capital letter “L.” *See* ECF No. 96 at 7, 12. He also represents that Plaintiff never placed  
19 these requests in the mail.<sup>2</sup> ECF No. 101 at 4. Nevertheless, he responded to these requests on  
20 April 3, 2024. ECF No. 101 at 4.

21 Plaintiff does not take the position that he emailed the requests to the email address  
22 registered with this Court: [1mittin@cpkalw.com](mailto:1mittin@cpkalw.com) (email address starting with lower-case letter  
23 “L”). Instead, he insists that no matter which email address he uses—[1mittin@cpkalw.com](mailto:1mittin@cpkalw.com),  
24 [Imittin@cpkalw](mailto:Imittin@cpkalw), or [1mittin@cpklaw.com](mailto:1mittin@cpklaw.com)—all emails are received by the law firm. Nor does  
25 Plaintiff take the position that he also sent these requests by regular mail.

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27 <sup>2</sup> The certificate of service regarding the request directed to Defendant Garcia indicates they were sent by  
28 email. ECF No. 96 at 10. The certificate of service regarding the request directed to Defendant Symanski  
indicates the requests were sent by email and by regular mail to Mr. Mitten's office. ECF No. 96 at 15.

1 Rule 36(b)(2)(E) makes clear that service by electronic means is not complete upon  
2 sending if the sender learns that it did not reach the person to be served. Here, Mr. Mittin  
3 represents he did not receive these emails because they were sent to the wrong email address. Mr.  
4 Mittin had informed Plaintiff in the past that using the email address starting with the number “1”  
5 would not reach him. ECF No. 98-6. In addition, there is no proof in the record that the law firm  
6 Mr. Mittin works at received the emails in question. Lastly, common sense dictates that Mr.  
7 Mitten would not have received an email sent to the wrong email address.

8 Mr. Mitten first learned about these requests on April 1, 2024. ECF No. 101 at 3.  
9 According to Rule 36(b)(2)(E), the day triggering the 30-day count down would have been March  
10 26, 2024, which is the day Plaintiff filed his motion and attached the requests. ECF No. 96. Mr.  
11 Mittin responded to these requests on April 3, 2024. As a result, Mr. Mitten’s responses to  
12 Requests for Admission, Set Two, as to both Defendants complies with Rule 36. Plaintiff’s  
13 request to deem these requests admitted is denied.

14 **IV. Admonishment**

15 This Court understands that Plaintiff, who is appearing pro se, is trying to navigate the  
16 legal system as best he can. But he cannot insist that emails were received by Mr. Mittin despite  
17 tacitly acknowledging that he was sending emails to the wrong email address. Litigation is costly  
18 and Federal Rule of Civil Procedure 37 allows for the imposition of attorney fees in certain  
19 circumstances. This Court will not shy away from imposing attorneys fees in the future should  
20 similar motions be filed.

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1 **V. Conclusion**

2 **IT IS THEREFORE ORDERED** that Plaintiff's motions at ECF Nos. 95 and 96 are  
3 **DENIED.**

4 **IT IS FURTHER ORDERED** that the hearing set for April 23, 2024, at 2:00 PM is  
5 **VACATED.**

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7 DATED: April 18, 2024.

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9 BREND A WEKSLER  
10 UNITED STATES MAGISTRATE JUDGE  
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